Registry of the Competition Tribunal

2013–14

Departmental Performance Report

The Honourable James Moore, P.C., M.P.
Minister of Industry

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represented by the Minister of Industry Canada, 2014

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Foreword

Departmental Performance Reports are part of the Estimates family of documents. Estimates documents support appropriation acts, which specify the amounts and broad purposes for which funds can be spent by the government. The Estimates document family has three parts.

Part I (Government Expenditure Plan) provides an overview of federal spending.

Part II (Main Estimates) lists the financial resources required by individual departments, agencies and Crown corporations for the upcoming fiscal year.

Part III (Departmental Expenditure Plans) consists of two documents. Reports on Plans and Priorities (RPPs) are expenditure plans for each appropriated department and agency (excluding Crown corporations). They describe departmental priorities, strategic outcomes, programs, expected results and associated resource requirements, covering a three-year period beginning with the year indicated in the title of the report. Departmental Performance Reports (DPRs) are individual department and agency accounts of actual performance, for the most recently completed fiscal year, against the plans, priorities and expected results set out in their respective RPPs. DPRs inform parliamentarians and Canadians of the results achieved by government organizations for Canadians.

Additionally, Supplementary Estimates documents present information on spending requirements that were either not sufficiently developed in time for inclusion in the Main Estimates or were subsequently refined to account for developments in particular programs and services.

The financial information in DPRs is drawn directly from authorities presented in the Main Estimates and the planned spending information in RPPs. The financial information in DPRs is also consistent with information in the Public Accounts of Canada. The Public Accounts of Canada include the Government of Canada Consolidated Statement of Financial Position, the Consolidated Statement of Operations and Accumulated Deficit, the Consolidated Statement of Change in Net Debt, and the Consolidated Statement of Cash Flow, as well as details of financial operations segregated by ministerial portfolio for a given fiscal year. For the DPR, two types of financial information are drawn from the Public Accounts of Canada: authorities available for use by an appropriated organization for the fiscal year, and authorities used for that same fiscal year. The latter corresponds to actual spending as presented in the DPR.

The Treasury Board *Policy on Management, Resources and Results Structures* further strengthens the alignment of the performance information presented in DPRs, other Estimates documents and the Public Accounts of Canada. The policy establishes the Program Alignment

Architecture of appropriated organizations as the structure against which financial and non-financial performance information is provided for Estimates and parliamentary reporting. The same reporting structure applies irrespective of whether the organization is reporting in the Main Estimates, the RPP, the DPR or the Public Accounts of Canada.

A number of changes have been made to DPRs for 2013–14 to better support decisions on appropriations. Where applicable, DPRs now provide financial, human resources and performance information in Section II at the lowest level of the organization's Program Alignment Architecture.

In addition, the DPR's format and terminology have been revised to provide greater clarity, consistency and a strengthened emphasis on Estimates and Public Accounts information. As well, departmental reporting on the Federal Sustainable Development Strategy has been consolidated into a new supplementary information table posted on departmental websites. This new table brings together all of the components of the Departmental Sustainable Development Strategy formerly presented in DPRs and on departmental websites, including reporting on the Greening of Government Operations and Strategic Environmental Assessments. Section III of the report provides a link to the new table on the organization's website. Finally, definitions of terminology are now provided in an appendix.

Minister's Message

I am pleased to report on the Industry Portfolio's key activities in 2013–14.

During this period, facilitating support for business innovation, strengthening private sector investment in job creation, and creating lasting partnerships with the research community were among our most important achievements.

In 2013–14, the Competition Tribunal continued to exercise its judicial role, dealing mainly with matters related to restrictive trade practices. The outcome of these cases could have an impact on some sectors of the economy, such as the Canadian real estate market, water heater industry and e-book market. Competition Tribunal decisions can influence both merchants and Canadian consumers.

Working together, Industry Canada and our portfolio partners will continue to improve competitiveness, cost-efficiencies and job opportunities, bolstering the Canadian economy and furthering our government's commitment to create jobs and growth.

I am pleased to present the *2013–14 Departmental Performance Report* for the Competition Tribunal.

James Moore
Minister of Industry

Section I: Organizational Expenditure Overview

Organizational Profile

Appropriate Minister: The Honourable James Moore

Institutional Head: Raynald Chartrand

Ministerial Portfolio: Industry Canada

Enabling Instrument(s): the *Competition Tribunal Act* (R.S.C., 1985, c. C-34), which can be found on the Department of Justice website.[ii]

Year of Incorporation / Commencement: 1986

Other: In *Canada's Economic Action Plan 2014*, the Government announced its intention to create the Administrative Tribunals Support Service of Canada (ATSSC). This new organization, which consolidates operations of several administrative tribunals, will provide support services to the Competition Tribunal (the Tribunal). The Tribunal will retain its adjudication powers while the Registry of the Competition Tribunal will transfer all human and financial resources to the ATSCC. The *Economic Action Plan 2014 Act, No. 1* received Royal Assent on June 19, 2014. As a result, the ATSSC is expected to come into force on November 1, 2014.

Organizational Context

Raison d'être

The Competition Tribunal, established in 1986, is an independent, quasi-judicial tribunal established under the *Competition Tribunal Act* to hear applications brought by the Commissioner of Competition or a private party, depending on the circumstances, under various parts of the *Competition Act*. The purpose of the *Competition Act* is to maintain and encourage competition in Canada. The Tribunal hears applications related to deceptive marketing practices, such as misleading advertising, under Part VII.1 of the *Competition Act*. The Tribunal also has jurisdiction to hear references as well as applications brought pursuant to Part VIII, which sets out restrictive trade practices such as exclusive dealings.

Responsibilities

Since its creation in 1986, the Tribunal has heard cases relating to mergers, abuse of dominance, deceptive marketing and various trade practices that have involved key players in several industries. Cases have involved a number of business areas, including furniture stores, importers of cast iron pipes, airline computer reservation systems, community newspapers, aspartame, waste disposal, car parts, weight-loss products, fuel-saving devices, fireplace maintenance products, banking and credit card services, poultry supply, career management services and real estate brokerage services.

The *Competition Tribunal Act* provides for an administrative infrastructure in support of the workings of the Competition Tribunal, through the Registry of the Competition Tribunal. The Registry of the Competition Tribunal is designated a department under Schedule I.1 of the *Financial Administration Act* and therefore must adhere to federal public administration policies including the preparation of this Departmental Performance Report. This report pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

The Registry of the Competition Tribunal supports all aspects of the Tribunal's work and ensures that the Tribunal can hold hearings across Canada, as required. The Registry is also the repository for filing applications, consent agreements, and documents, as well as issuing documents and orders for all cases brought before the Tribunal. The office of the Registry of the Competition Tribunal is located in the National Capital Region.

Strategic Outcome and Program Alignment Architecture

1. Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

1.1 Program: Process Cases

Internal Services

Organizational Priorities

Organizational Priorities

Priority	Type[1]	Strategic Outcome
Support the implementation of electronic hearings for all cases heard by the Tribunal	Previously committed to	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction
Summary of Progress		
What progress has been made toward this priority? The Competition Tribunal now proceeds electronically with its hearings on the merits. Feedback received from Tribunal members generated some interest in our electronic hearings from some judges of the Federal Court, resulting in the Registry providing support and assistance for a pilot project with the electronic hearing of a case heard by the Federal Court.		

Priority	Type	Strategic Outcome
Provide continuous learning opportunities to Tribunal Members	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction
Summary of Progress		
What progress has been made toward this priority? The writing of decisions on some complex cases heard in the previous fiscal year extended into the 2013-14 fiscal year. Therefore the annual meeting of the Tribunal was postponed to allow the Members to focus on the issuing of decisions.		

1. Type is defined as follows: previously committed to—committed to in the first or second fiscal year prior to the subject year of the report; ongoing—committed to at least three fiscal years prior to the subject year of the report; and new—newly committed to in the reporting year of the RPP or DPR. If another type that is specific to the department is introduced, an explanation of its meaning must be provided.

Priority	Type	Strategic Outcome
Assess how the Registry could support the Tribunal in a more cost-effective manner	New	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction

Summary of Progress

What progress has been made toward this priority?

In the Federal Budget 2014, the federal government announced the creation of the Administrative Tribunals Support Service of Canada (ATSSC), a new entity that will provide administrative support to 12 tribunals, including the Competition Tribunal. All staff of the Registry of the Competition Tribunal will be transferred to the ATSSC which is expected to be officially established in the fall of 2014.The Registry has been actively involved in working groups to support the planning and implementation of the ATSSC.

Priority	Type	Strategic Outcome
Develop partnerships with other organizations to provide learning opportunities to employees	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction

Summary of Progress

What progress has been made toward this priority?

Our previous experience with providing learning opportunities to staff in other organizations has been beneficial for the employees involved and for the Registry. During the year, the number of resources continued to be aligned with the workload to maintain the Tribunal's level of service. As of March 2014, all staff of the Registry was shared with other organizations.

Risk Analysis

Key Risks

Risk	Risk Response Strategy	Link to Program Alignment Architecture
The Registry faces a substantial, ongoing planning challenge in that the Tribunal's sole function is to respond to the matters referred to it. Its activities are driven by external demands that it can only react to rather than plan for.	The Registry must be in a state of readiness to provide support for the Tribunal's work. The sharing of resources with other organizations ensured the appropriate level of resources was available to handle fluctuations in the workload. This risk was identified in the 2013-14 Report on Plans and	• Process Cases

	Priorities and the course of action to mitigate the risk was followed throughout the year.	
The use of an electronic hearing system for virtually all hearings requires that Tribunal members and staff be comfortable with the technology used during proceedings.	Hearings on the merits of cases did not take place during the fiscal year, but the Registry continued to build on the positive feedback received from Tribunal members on the electronic hearing initiative and worked on a pilot project with the Federal Court. This risk was identified in the 2013-14 Report on Plans and Priorities.	• Process Cases
A micro organization like the Registry can only offer limited professional development opportunities to staff.	With the creation of the Administrative Tribunals Support Service Canada, in the fall of 2014, the staff of the Registry will become part of a larger organization which will provide them with more opportunities. This risk was identified in the 2013-14 Report on Plans and Priorities.	• Process Cases • Internal Services

The number of applications brought before the Tribunal depends on the enforcement policy adopted by the Competition Bureau and the number of applications filed by individuals or companies under the private action provision of the *Competition Act*. The sharing of resources with other organizations has proven to be effective in ensuring the Registry's resources are scalable and in a state of readiness to support the Tribunal in meeting its mandate.

Actual Expenditures

Budgetary Financial Resources (dollars)

2013–14 Main Estimates	2013–14 Planned Spending	2013–14 Total Authorities Available for Use	2013–14 Actual Spending (authorities used)	Difference (actual minus planned)
2,331,323	2,441,705	2,417,481	1,155,423	(1,286,282)

Human Resources (Full-Time Equivalents [FTEs])

2013–14 Planned	2013–14 Actual	2013–14 Difference (actual minus planned)
10	5.25	4.75

Budgetary Performance Summary for Strategic Outcome and Programs (dollars)

Strategic Outcome, Programs and Internal Services	2013–14 Main Estimates	2013–14 Planned Spending	2014–15 Planned Spending	2015–16 Planned Spending	2013–14 Total Authorities Available for Use	2013–14 Actual Spending (authorities used)	2012–13 Actual Spending (authorities used)	2011–12 Actual Spending (authorities used)
Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.								
Process Cases	1,631,926	1,709,194	1,718,230	1,639,322	1,729,459	848,462	1,353,452	1,019,714
Subtotal	1,631,926	1,709,194	1,718,230	1,639,322	1,729,459	848,462	1,353,452	1,019,714
Internal Services Subtotal	699,397	732,511	736,384	702,567	688,022	306,961	383,360	568,982
Total	2,331,323	2,441,705	2,454,614	2,341,889	2,417,481	1,155,423	1,736,812	1,588,696

The variance between the planned spending for the year and the actual spending is mainly due to cases of the Tribunal held in abeyance until decisions from the Federal Court of Appeal and the Supreme Court of Canada are issued. The lower than expected program expenses could only be a deferral of expenses should the cases before the higher courts result in a redetermination of some decisions of the Tribunal.

Alignment of Spending With the Whole-of-Government Framework

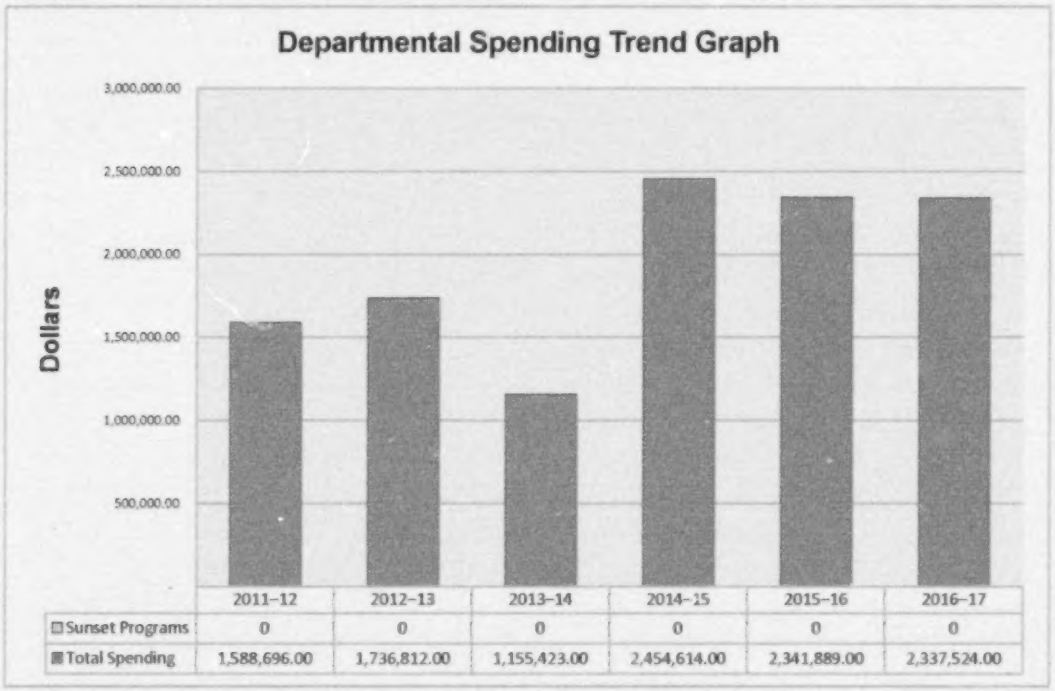
Alignment of 2013–14 Actual Spending With the Whole-of-Government Framework[iii] (dollars)

Strategic Outcome	Program	Spending Area	Government of Canada Outcome	2013–14 Actual Spending
Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction	Process Cases	Economic Affairs	A fair and secure market place	848,462

Total Spending by Spending Area (dollars)

Spending Area	Total Planned Spending	Total Actual Spending
Economic Affairs	1,758,980	848,462
Social Affairs	0	0
International Affairs	0	0
Government Affairs	0	0

Departmental Spending Trend



	2011–12	2012–13	2013–14	2014–15	2015–16	2016–17
Sunset Programs	0	0	0	0	0	0
Total Spending	1,588,696.00	1,736,812.00	1,155,423.00	2,454,614.00	2,341,889.00	2,337,524.00

Estimates by Vote

For information on the Registry of the Competition Tribunal's organizational Votes and statutory expenditures, consult the *Public Accounts of Canada 2014* on the Public Works and Government Services Canada website.[iv]

Section II: Analysis of Programs by Strategic Outcome

Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Program 1.1: Process Cases

Description

The Registry of the Competition Tribunal's main program activity is to process cases by providing the public with efficient access to case documents and decisions, as well as with efficient hearing support services.

The Tribunal hears cases and the Registry manages the material for the cases heard by the Tribunal under Part VII.1 (Deceptive Marketing Practices) and Part VIII (which includes Restrictive Trade Practices) of the *Competition Act*.

Budgetary Financial Resources (dollars)

2013–14 Main Estimates	2013–14 Planned Spending	2013–14 Total Authorities Available for Use	2013–14 Actual Spending (authorities used)	2013–14 Difference (actual minus planned)
1,631,926	1,709,194	1,729,459	848,462	(860,732)

Human Resources (Full-Time Equivalents [FTEs])

2013–14 Planned	2013–14 Actual	2013–14 Difference (actual minus planned)
6.5	3.25	3.25

Performance Results

Expected Results	Performance Indicators	Targets	Actual Results
Timely registry services that provide efficient access to case records and decisions	Percentage of non-confidential case documents and decisions posted on website within 48 hours of filing	90%	All documents (100%) were posted within 24 hours of receipt of confirmation that the documents did not contain confidential information.
Documents that are processed according to	Documents processed within established	100%	The current *Competition Tribunal Rules*[v] were

time frames	timeframes		established some time ago and there was no staff turnover in the Registry this year; therefore all documents (100%) were processed within the set time frames.
Efficient access to electronic processing of applications	Percentage of documents filed using the electronic filing system	50%	Following the issuing of the notice to the profession stating that hearings would be held electronically, there was increased use of the e-filing system, compared with regular email. Over 60% of documents filed for large-scale hearings were filed using the e-filing system.

Performance Analysis and Lessons Learned

There was a slight increase in the number of proceedings filed this year due to a number of consent agreements filed with the Tribunal. It is expected that four major cases will be heard in 2015, so the lower than expected actual spending for 2013-14 is really a deferral of expenses until next fiscal year. The Registry can only react to the adjudicative process and provide the support required when cases are ready to be heard.

Number of Proceedings

	2013-14	2012-13
Number of proceedings filed	**11**	5
Number of proceedings completed	**11**	6
Number of proceedings filed from previous years and still ongoing	**4**	4
Number of decisions rendered	**14**	21

Internal Services

Description

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Other Administrative Services. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

Budgetary Financial Resources (dollars)

2013–14 Main Estimates	2013–14 Planned Spending	2013–14 Total Authorities Available for Use	2013–14 Actual Spending (authorities used)	2013–14 Difference (actual minus planned)
699,397	732,511	688,022	306,961	(381,061)

Human Resources (FTEs)

2013–14 Planned	2013–14 Actual	2013–14 Difference (actual minus planned)
3.5	2	1.5

Performance Analysis and Lessons Learned

Employee turnover was low again this year. This situation continued to provide better continuity of operations while providing staff with opportunities to share their services with other organizations and furthering their career advancement. With the creation of the Administrative Tribunals Support Service of Canada, the Registry will be amalgamated with 12 other tribunals into a new entity. This will contribute to maintaining a well trained workforce while providing developmental assignment opportunities to employees.

Section III: Supplementary Information

Financial Statements Highlights

Registry of the Competition Tribunal
Condensed Statement of Operations and Departmental Net Financial Position (unaudited)
For the Year Ended March 31, 2014
(dollars)

	2013–14 Planned Results	2013–14 Actual	2012–13 Actual	Difference (2013–14 actual minus 2013–14 planned)	Difference (2013–14 actual minus 2012–13 actual)
Total expenses	3,192,741	1,784,652	2,484,225	(1,408,089)	(699,573)
Total revenues	0	0	0	0	0
Net cost of operations before government funding and transfers	3,192,741	1,784,652	2,484,225	(1,408,089)	(699,573)
Departmental net financial position	(46,498)	3,210	(36,990)	49,708	40,200

Registry of the Competition Tribunal
Condensed Statement of Financial Position (unaudited)
As at March 31, 2014
(dollars)

	2013–14	2012–13	Difference (2013–14 minus 2012–13)
Total net liabilities	117,319	238,569	(121,250)
Total net financial assets	43,613	77,068	(33,455)
Departmental net debt	73,705	161,501	(87,796)
Total non-financial assets	76,915	124,511	(47,596)
Departmental net financial position	3,210	(36,990)	40,200

The variance between the actual expenditures of 2013-14 and 2012-13 is due to the direct expenses of hearings held by the Tribunal. In 2012-13, the hearing of two major cases required a substantial amount of Registry resources compared to 2013-14, when there were a much lower number of hearing days. The variance between the planned expenditures for the year and the actual spending is due mainly to cases of the Tribunal held in abeyance until decisions from the Federal Court of Appeal and the Supreme Court of Canada are issued. The related expenses will be incurred in 2014-15 as opposed to 2013-14.

Financial Statements

The Registry of the Competition Tribunal financial statements can be found on the Tribunal's website.[i]

Supplementary Information Table

The supplementary information table listed in the *2013–14 Departmental Performance Report* can be found on the Registry of the Competition Tribunal's website.[i]

- Internal Audits and Evaluations

Name of internal audit	Internal audit type	Status	Completion date
Core Control Audit	Financial Management	Completed	June 2014

Tax Expenditures and Evaluations

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance Canada publishes cost estimates and projections for these measures annually in the *Tax Expenditures and Evaluations*[vi] publication. The tax measures presented in the *Tax Expenditures and Evaluations* publication are the sole responsibility of the Minister of Finance.

Section IV: Organizational Contact Information

Competition Tribunal
Thomas D'Arcy McGee Building
90 Sparks Street, Suite 600
Ottawa, Ontario K1P 5B4
Web: http://www.ct-tc.gc.ca[i]

Appendix: Definitions

appropriation: Any authority of Parliament to pay money out of the Consolidated Revenue Fund.

budgetary expenditures: Include operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations.

Departmental Performance Report: Reports on an appropriated organization's actual accomplishments against the plans, priorities and expected results set out in the corresponding Reports on Plans and Priorities. These reports are tabled in Parliament in the fall.

full-time equivalent: Is a measure of the extent to which an employee represents a full person-year charge against a departmental budget. Full-time equivalents are calculated as a ratio of assigned hours of work to scheduled hours of work. Scheduled hours of work are set out in collective agreements.

Government of Canada outcomes: A set of 16 high-level objectives defined for the government as a whole, grouped in four spending areas: economic affairs, social affairs, international affairs and government affairs.

Management, Resources and Results Structure: A comprehensive framework that consists of an organization's inventory of programs, resources, results, performance indicators and governance information. Programs and results are depicted in their hierarchical relationship to each other and to the Strategic Outcome(s) to which they contribute. The Management, Resources and Results Structure is developed from the Program Alignment Architecture.

non-budgetary expenditures: Include net outlays and receipts related to loans, investments and advances, which change the composition of the financial assets of the Government of Canada.

performance: What an organization did with its resources to achieve its results, how well those results compare to what the organization intended to achieve and how well lessons learned have been dentified.

performance indicator: A qualitative or quantitative means of measuring an output or outcome, with the intention of gauging the performance of an organization, program, policy or initiative respecting expected results.

performance reporting: The process of communicating evidence-based performance information. Performance reporting supports decision making, accountability and transparency.

planned spending: For Reports on Plans and Priorities (RPPs) and Departmental Performance Reports (DPRs), planned spending refers to those amounts that receive Treasury Board approval by February 1. Therefore, planned spending may include amounts incremental to planned expenditures presented in the Main Estimates.

A department is expected to be aware of the authorities that it has sought and received. The determination of planned spending is a departmental responsibility, and departments must be able to defend the expenditure and accrual numbers presented in their RPPs and DPRs.

plans: The articulation of strategic choices, which provides information on how an organization intends to achieve its priorities and associated results. Generally a plan will explain the logic behind the strategies chosen and tend to focus on actions that lead up to the expected result.

priorities: Plans or projects that an organization has chosen to focus and report on during the planning period. Priorities represent the things that are most important or what must be done first to support the achievement of the desired Strategic Outcome(s).

program: A group of related resource inputs and activities that are managed to meet specific needs and to achieve intended results and that are treated as a budgetary unit.

results: An external consequence attributed, in part, to an organization, policy, program or initiative. Results are not within the control of a single organization, policy, program or initiative; instead they are within the area of the organization's influence.

Program Alignment Architecture: A structured inventory of an organization's programs depicting the hierarchical relationship between programs and the Strategic Outcome(s) to which they contribute.

Report on Plans and Priorities: Provides information on the plans and expected performance of appropriated organizations over a three-year period. These reports are tabled in Parliament each spring.

Strategic Outcome: A long-term and enduring benefit to Canadians that is linked to the organization's mandate, vision and core functions.

sunset program: A time-limited program that does not have an ongoing funding and policy authority. When the program is set to expire, a decision must be made whether to continue the program. In the case of a renewal, the decision specifies the scope, funding level and duration.

target: A measurable performance or success level that an organization, program or initiative plans to achieve within a specified time period. Targets can be either quantitative or qualitative.

whole-of-government framework: Maps the financial contributions of federal organizations receiving appropriations by aligning their Programs to a set of 16 government-wide, high-level outcome areas, grouped under four spending areas.

Endnotes

i. **Competition Tribunal website**, http://www.ct-tc.gc.ca/
ii. ***Competition Tribunal Act***, http://laws-lois.justice.gc.ca/eng/acts/C-34/
iii. **Whole-of-government framework**, http://www.tbs-sct.gc.ca/ppg-cpr/frame-cadre-eng.aspx
iv. ***Public Accounts of Canada 2014***, http://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-eng.html
v. ***Competition Tribunal Rules***, http://laws-lois.justice.gc.ca/eng/regulations/SOR-2008-141/index.html
vi. ***Tax Expenditures and Evaluations*** **publication**, http://www.fin.gc.ca/purl/taxexp-eng.asp